REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner.

Upon entry of the instant Amendment, Claims 1-19 and 21-29 will be all of the claims presently pending before the Examiner. Instantly, Claims 1 and 21 are amended. Claims 28-29 are newly added.

Applicants respectfully submit that no new matter has been added by the present amendments. Support for the amendments can be found generally throughout the Applicants' disclosure. These amendments are not intended to change the overall scope of the claims, but rather they are made simply to bring the claims into better accord with present U.S. practices.

The Office is requested to reconsider the outstanding rejections in light of the comments below.

I. Claim Rejections

a. 35 USC 102(b) - Piejko et al

Claims 1-7, 11-13, 15-18, 21-23, and 25-27 stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Piejko et al., USPN 5,237,001 (hereinafter "Piejko").

Piejko relates to a thermoplastic composition that is a blend of a thermoplastic polyurethane and a partly crosslinked alkyl acrylate copolymer. As such, Piejko fails to teach a "thermoplastic material (A) chosen from a polyamide based thermoplastic material...."

Withdrawal of the rejections is therefore requested.

b. 35 USC 102(b) - Linder et al

Claims 1-7, 10, 11, 13, 15-19, 21-23, and 25-27 stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Linder et al., USPN 5,075,380 (hereinafter "Linder").

As best understood, Linder relates to soft, rubber-like thermoplastically processible polymer alloys based on thermoplastic polyamides and special crosslinked particulate alkyl acrylate copolymer rubbers.

Applicants submit said alloys fail to meet the presently claimed invention and therefore the rejections should be withdrawn.

c. 35 USC 102(b) - McKee et al

Claims 1-6, 8, 9, 11-19, 21-23, and 25-27 rejected under 35 U.S.C. 102(b) as being allegedly anticipated by McKee et al., USPN 4,694,042 (hereinafter "McKee").

McKee discloses a composition of a partially or completely crystalline thermoplastic polymer and one or more crosslinked elastomeric polymer. Mckee fails to teach a microgel having primary particles with an average particle size of 30 to 300 nm. Mckee instead teaches an elastomeric polymer having a particle size of 400 nm (0.4 microns) per its Examples.

Withdrawal of the present rejections is appropriate at this juncture.

d. Double Patenting

Claims 1-1, 13, 16-19, 21-23, and 25-27 are provisionally rejected under obviousness-type double patenting over claims 1-12, 15-19, and 22-30 of co-pending Application No. 10/573,217 (hereinafter "the '217 application").

Applicants submit both the present application and the '217 application are pending, however, any allowable subject matter has not yet been indicated in either application. Where a provisional rejection under the judicially created doctrine of

obviousness-type double patent is named between two applications, MPEP § 104(I)(B) states that if the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, then the examiner should withdraw that rejection and permit the application to issue as a patent, thereby converting the provisional rejection in the other application into a non-provisional double-patenting rejection.

Because it is unclear which of the pending applications will become allowable first, and whether the subject matter so allowed will still be considered to result in an obvious-type double patenting rejection, any action by Applicants in this regard is presently premature. Applicants hereby reserve their right to respond to said provisional rejections if and when they are no longer provisional.

II. Conclusion

In summary, it is respectfully submitted that the instant application, including Claims 1-19 and 21-29, is presently in condition for allowance. Notice to the effect is earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

The USPTO is hereby authorized to charge any fees, including any fees for an extension of time or those under 37 CFR 1.16 or 1.17, which may be required by this paper, and/or to credit any overpayments to Deposit Account No. 50-2527.

Respectfully,

By _____

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